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HUMAN RIGHTS COMMITTEE

Sixty-first session

SUMMARY RECORD OF THE SECOND PART (PUBLIC)* OF THE 1631st MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 29 October 1997 at 5.40 p.m.

Chairperson: Ms. CHANET

CONTENTS

GENERAL COMMENTS OF THE COMMITTEE (continued)

Draft general comment relating to the denunciability or withdrawal from the International Covenant on Civil and Political Rights

* The summary record of the first part (closed) of the meeting appears as document CCPR/C/SR.1631.

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GE.97-18874 (E)

The public part of the meeting was called to order at 5.40 p.m.

GENERAL COMMENTS OF THE COMMITTEE (agenda item 5) (continued)

Draft general comment on issues relating to the denunciability or withdrawal from the International Covenant on Civil and Political Rights (continued) (CCPR/C/21/Rev.1/Add.8)

Title

1. The CHAIRPERSON suggested that the title should be couched in more positive terms, for example by referring to a country's obligations under the Covenant rather than to the possibility of denouncing it.

2. Ms. EVATT said that any alternative to the ghastly term "denunciability" would be welcome and supported the idea of a reference to continuing obligations.

3. Lord COLVILLE said he also preferred a positive approach and proposed the amendment "General comment on issues relating to the continuity of obligations to the Covenant".

4. It was so decided.

Paragraph 1

5. Mr. EL SHAFEI suggested that the words "or a decision" should be inserted after the word "proposal" in the second sentence.

6. Mr. POCAR proposed as an alternative that "a proposal to terminate, denounce or withdraw" should be replaced by "the possibility of termination, denunciation or withdrawal".

7. It was so decided.

8. Ms. EVATT suggested that "It follows that" at the beginning of the third sentence should be amended to read "On this basis".

9. It was so decided.

Paragraph 2

10. Ms. EVATT proposed that the end of the first sentence should be amended to read "there is no such provision for denunciation of or withdrawal from the Covenant itself" to emphasize the contrast between the Covenant as a whole and the provision in article 41, paragraph 2.

11. It was so decided.

12. Ms. MEDINA QUIROGA proposed that the second reference to the Optional Protocol in the second sentence should be deleted and replaced by the word "it".

13. It was so decided.

14. Mr. EL SHAFEI wondered whether the reference to the possibility of denouncing the Convention on the Elimination of All Forms of Racial Discrimination in the third sentence reinforced the Committee's argument. In his view, the rights set forth in that Convention were of fundamental importance.

15. Mr. BUERGENTHAL said the argument was that a United Nations treaty drafted one year prior to the Covenant contained an express provision for denunciation. Hence the omission of such a provision from the Covenant was no mere oversight.

16. Mr. SCHEININ suggested that Mr. El Shafei's point might be met by replacing the reference to the Convention by a general reference to other human rights treaties adopted shortly before or after the Covenant.

17. The Committee might consider it appropriate some time in the future to adopt a general comment on the modalities and consequences of denunciation of the Optional Protocol. It might also consider revising draft general comment No. 26 at one of its future sessions.

18. The CHAIRPERSON said that the Convention referred to in paragraph 2 had not been chosen at random: it was the only treaty adopted prior to the Covenant which contained a denunciation clause. There was no other precedent.

Paragraph 3

19. Mr. LALLAH suggested that "by its very nature" in the first sentence should be amended to read "by its inherent nature".

20. Mr. KLEIN proposed as an alternative the wording used in article 56 of the Vienna Convention on the Law of Treaties, which was "by its nature".

21. It was so decided.

22. Mr. POCAR observed that the joint title of the three instruments referred to in the second sentence should read "International Bill of Human Rights".

Paragraph 4

23. Mr. POCAR proposed that the final sentence should be moved to the end of paragraph 2 and amended to read: "The same conclusion applies to the Second Optional Protocol, in the drafting of which a denunciation clause was deliberately omitted".

24. It was so decided.

Paragraph 5

25. Mr. KLEIN, noting that there was a distinction between denunciation and withdrawal and that both were referred to in the Vienna Convention on the Law of Treaties, proposed that a reference to withdrawal should be included in the final paragraph.

26. It was so decided.

27. General comment No. 26, as amended, was adopted.

The meeting rose at 6.05 p.m.